* BEFORE THE IN THE MATTER OF THE * COUNTY BOARD OF APPEALS THE APPLICATION OF THEODORE C. SOLOMON FOR A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED * OF ON THE NORTH SIDE OF BENSON * BALTIMORE COUNTY MILL ROAD, 320' WEST OF C/L OF FALLS ROAD * CASE NO. 92-356-XA (3006 BENSON MILLS ROAD) 5TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT * * * * * * * *

OPINION

This case comes before this Board on appeal from a decision of the Deputy Zoning Commissioner dated June 2, 1992, granting the Petition for a Special Exception to permit a kennel on the subject property and granting certain setback variances, but denying the petition for a variance to permit an accessory kennel building in the side/front yard in lieu of the required rear yard.

Counsel for the Petitioner and Protestants stipulated and agreed that no testimony would be heard regarding restrictive covenants.

Esther Solomon, wife of the Petitioner, testified that she and her husband own and keep three German shepherds, two males and a spayed female, on the subject property, which is zoned R.C. 2. She testified that they want to be able to have one or two more female German shepherds, to be used for breeding, and would breed each female every other year and sell the puppies. She testified that the puppies would definitely be sold by the time they were four

Mrs. Solomon testified that all three dogs are kept in at night, and during the day they are confined either to a kennel run

The Board further finds that adherence to the 200-foot setback

requirement would cause the Petitioners practical difficulty or

unreasonable hardship, because of the location of the existing

house and the conditions peculiar to the land. However, the Board

is of the opinion that the outside kennel and dog run located on

the west side of the property, 51 feet from the property line,

could be moved without undue hardship to within the fenced-in area

ORDER

subject property as a kennel (a "fanciers" establishment) be and is

hereby GRANTED, subject to the restrictions set forth hereinafter;

88 feet, an east side yard setback of 170 feet, and a rear yard

setback of 120 feet, all in lieu of the required 200 feet for the

existing dwelling and accessory kennel building, in accordance with

Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the

proceeding at this time is at their own risk

until such time as the 30-day appellate process

from this Order has expired. If, for whatever

reasons, this Order is reversed, the Petitioners

would be required to return, and be responsible

for returning, said property to its original

benefit of the Petitioners, Theodore and Esther Solomon, only. In the event the Petitioners

either sell, lease or transfer the subject property to a third party, the special exception for a kennel operation on the subject property

2. The special exception and variance relief granted herein shall inure to the use and

1. The Petitioners are hereby made aware that

ORDERED that the Petition for Special Exception to use the

ORDERED that a variance to permit a west side yard setback of

, 1993 by the

IT IS THEREFORE this 28th day of January

County Board of Appeals of Baltimore County

Case No. 92-356-XA Theodore C. Solomon

in the back yard.

and it is further

following restrictions:

condition.

Case No. 92-356-XA Theodore C. Solomon

in the front of the property on the west side, or to an area in the back yard surrounded by an 8-foot-high stockade fence which is buffered by trees beyond the fence. She testified that the fencedin area in the back contains a 20-foot by 20-foot concrete pad with four 5-foot by 20-foot runs with dog houses in them.

Photographs presented as Petitioner's Exhibits 2A through 2H show the fenced-in area and kennels to be kept in a clean, orderly condition.

Mrs. Solomon testified that she and her husband are requesting a special exception that would restrict them to five adult dogs, and that they do not want the special exception or variances to pass on to any future owner or lessee of the subject property.

She further testified that, in her opinion, granting a special exception for a kennel on the subject property would not be detrimental to the health, safety or general welfare of the neighborhood and would comply with all other conditions of Section 502.1 of the Baltimore County Zoning Regulations (BCZR).

The Petitioners requested a variance from Section 421.1 of the BCZR to permit a kennel use area as close as 51 feet in lieu of the required minimum setback of 200 feet from the property line; and a variance from Section 400.1 of the BCZR to permit accessory buildings in the side/front yard in lieu of the rear yard.

Mrs. Solomon testified that they could not meet the 200-foot setback requirement because the basement of their house is used as a kennel, and their house is not 200 feet from the property line. She testified that of the outside kennels, which are used as day

Case No. 92-356-XA Theodore C. Solomon shall cease and terminate.

3. The Petitioners shall have no more than five (5) producing one litter a year total, not per dog. the personal pets of the Petitioners.

Petitioners.

ORDERED that the Petition for Zoning Variance requesting relief from Section 421.1 of the BCZR to permit a kennel use area as close to a property line as 51 feet in lieu of the required

adult dogs, only two (2) of which may be unspayed females, on the property at any one time. Said females shall be limited to All dogs kept on the premises are required to be

4. All dogs shall be kept inside the subject dwelling from approximately 9:00 p.m. until approximately 8:00 a.m. each day. Further, whenever the dogs are outside, they shall be kept inside the fenced area as depicted on Petitioner's Exhibit 1. At no time shall the dogs be permitted to run outside the fenced area, unless under the direct supervision of the

5. Within sixty (60) days of the date of this Order, the accessory kennel building located outside the fenced area on the west side of the subject property shall either be removed from the property or relocated to within the fenced area as shown on Petitioner's Exhibit 1. In either event the Petitioners shall submit a revised site plan depicting either its removal or relocation for inclusion in the case file within sixty (60) days of the date of this Order.

6. Any and all puppies resulting from the Petitioners' breeding their dogs shall be removed from the property within four (4) months after their birth. This should allow the Petitioners sufficient time to either sell or relocate any and all puppies.

7. When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order;

and it is further

Two neighbors who live adjacent to the Petitioner testified that they had no objection to the granting of the special exception or variances. Fielder Hiss, Jr., who is the closest neighbor,

runs, the one in the front yard is the closest one to the property

Case No. 92-356-XA Theodore C. Solomon

line, being 51 feet from the line.

testified that he considers the dogs a deterrent to potential burglars, and that the dogs are never loose, nor have they posed any threat to him or his two sons. Morton D. Goldstein, who also lives adjacent to the Petitioner, testified that the dogs do not bark excessively and seem to be well-trained.

William F. Kirwin, an expert land planner, testified that there is plenty of space on the 3.7-acre property for five adult dogs and a litter of puppies every year. He testified that the run behind the house is located in a gully and so buffered by a wooded area that it can't be seen from Benson Mill Road or the entry drive at all. He further testified that the proposed kennel would not be detrimental to the primary agricultural uses of the R.C. 2-zoned property, and that the requested special exception would comply with all the conditions of Section 502.1 of the BCZR.

Mr. Kirwin testified that special circumstances on the property would make strict compliance with the 200-foot setback requirement a practical difficulty or impose unreasonable hardship, because the house is already on the site, and there is no place that the kennel could be put on the site and meet the 200-foot requirement.

Robert C. Merrey, Jr., Division Director, Support Services,

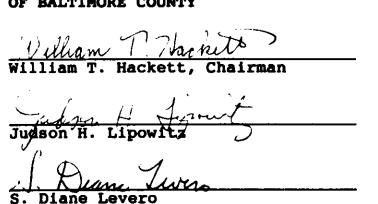
Case No. 92-356-XA Theodore C. Solomon

minimum of 200 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and it is further

ORDERED that the Petition for Zoning Variance from Section 400.1 of the BCZR to permit an accessory kennel building to be located in the side/front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED since the Petitioners are now required, pursuant to this Order, to either relocate or remove this smaller kennel from the side/front yard of their property.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

> COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY



Case No. 92-356-XA Theodore C. Solomon

Department of Environmental Protection & Resource Management, testified that, based on sound level measurements taken at the site, there will more than likely be excessive levels of noise if the special exception is granted.

Michael Lambros, a resident of the Benson Mill Estates development, in which the subject property is located, testified that, in his opinion, the proposed kennel would be detrimental to the health, safety and general welfare of the neighborhood. He testified that he believes such a kennel would create noise and traffic problems for the community and that if one of the dogs got loose, it could pose a danger to the community. He further testified that he objects to allowing a commercial venture into a solid residential neighborhood.

Eileen Starner, another resident of the development, testified that, in her opinion, having a kennel in the neighborhood would seriously impact on the value of her house.

Both Mr. Lambros and Ms. Starner testified that they have heard the sound of barking dogs on occasion, but could not testify with certainty that the sounds were those of the Petitioners' dogs. Both Protestants live one-third mile or more from the subject property.

After carefully considering all the testimony and evidence, this Board finds that the Petitioners have shown that the proposed use will meet the standards and requirements of Section 502.1 of the BCZR, and the special exception should be granted, with certain restrictions.

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE AND ZONING VARIANCE - N/S of Benson Mill Road, 320' W of the * DEPUTY ZONING COMMISSIONER c/l of Falls Road (3006 Benson Mill Road) * OF BALTIMORE COUNTY 5th Election District 3rd Councilmanic District * Case No. 92-356-XA

Theodore C. Solomon

Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * * * * * *

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception in which the Petitioner requests approval of a kennel (a "fanciers" establishment) on the subject property, and a Petition for Zoning Variance requesting relief from Section 421.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a kennel use area as close to a property line as 51 feet in lieu of the required minimum of 200 feet, and from Section 400.1 of the B.C.Z.R. to permit two accessory buildings to be located in the front and side yards in lieu of the required rear yard, all as more particularly described on Petitioner's Exhibit 1.

Esther Solomon appeared and testified on behalf of herself and her husband, legal property owners and Petitioners, and was represented by Robert A. Hoffman, Esquire. Also appearing on behalf of the Petitioners was William Kirwin, expert Land Planner. Appearing as Protestants in the matter were Carl W. and Eileen Starner, and Bruce Penczek. The Protestants were represented by Michael J. Lambros, Esquire.

Testimony indicated that the subject property, known as 3006 Benson Mill Road, consists of 3.7317 acres, more or less, zoned R.C. 2 and is improved with a one and one-half story dwelling, and two accessory buildings used as kennels. Petitioners filed the instant Petitions to legalize their use of the property as a kennel. Esther Solomon testified

LAW OFFICES LAMBROS & LAMBROS

A PROFESSIONAL ASSOCIATION 9900 N YORK ROAD COCKEYSVILLE MARYLAND 21030

MICHAEL J LAMBROS J MITCHELL LAMBROS (410) 666-2200

NATIONWIDE BUILDING SUITE C ROUTE 140 & BETHEL ROAD 1812 BALTIMORE BLVD WESTMINSTER MD 21157 410) 876-7610

June 29, 1992

Baltimore County Zoning Office Suite 113, Courthouse 400 Washington Avenue Towson, Maryland 21204

> Re: Petitions for Special Exception and Zoning Variance Theodore Solomon Case No. 92-356-XA

Gentlemen:

Please file an Appeal to the Zoning Board of Appeals in the above-captioned matter from the decision dated June 2, 1992. I am enclosing my check in the amount of \$460 to cover the cost.

Please forward all correspondence to this office. very/t/ruly/yours.

Mi/chael/0. Lambros

MJL:vlk Enclosure

LIBER5366 PAGE565

Provestan 4 Ex#2

"KXHIBIT A"

BENSON MILL ASSOCIATES, INC.

Restrictions

- 1. The land conveyed herein shall not be occupied and/or used for any purpose other than residential use.
- 2. No building shall be commenced, elected, altered, or placed on said land or any part thereof until approval of the plans and specifications therefor is secured in writing from the Grantor of from its authorized agents which approval shall not be unreasonably withheld. Approval shall be determined by the following considerations:
- (a) Location of the home on the lot to be in harmony with the general surroundings and the adjacent neighborhood properties.
- (b) Any dwelling house erected thereon shall contain a minimum living floor area of 1800 square feet, which 1800 square feet shall not contain any area in garages, attic, basement, porches, patio, or terraces.
- (c) Any dwelling constructed on said lot shall be completed within 12 months from start of construction.
- (d) Each lot owner shall maintain a driveway for offstreet parking.
- 3. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.
- 4. No poultry, pigeons, or swine may be kept on any lot. No horses or ponies shall be kept on any lot without the written permission of the Grantor.
- 5. No repairing, dismantling, or storing of automotive vehicles or trucks or other types of equipment shall be permitted to be done in a way as to constitute a nuisonce or unsightly appearance to the neighboring parcels.
- 6. The land conveyed herein may not be subdivided without Grantor's approval.
- 7. Owners of lots shall be responsible for complying with the Health Department Regulations of Baltimore County and/or the State of Maryland in regard to the drilling of a water well and the installation of private sewer systems or their property.
- 8. No outdoor mercury lights will be allowed.
- 9. The aforeshid restrictions shall run with the land hereby conveyed and shall not be binding on any other land owned by the Grantor and enforcement of the above restrictions shall be by proceeding at law or in equity against any person or persons violating or attempting to violate these restrictions. The developers or their agents reserve the right to waive such portions of these restrictions as they deem necessary in the east interest of
- It is hereby understood and agreed to between the parties that the foregoing restrictions shall be null and void and of no effect if the same restrictions are not made applicable to all of the lots numbers one through and including eighteen as shown on the Plat of Benson Hill Estates as prepared by Joseph D. Thompson, Engineers Inc. dated April 26, 1973.

VENABLE, BAETJER AND HOWARD

ATTORNEYS AT LAW A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS 210 ALLEGHENY AVENUE P.O. BOX 5517 TOWSON, MARYLAND 21285-5517 (30) 823 4111

BEL AIR, MD ____

RICHARD M. VENABLE (1839-1910) EDWIN G. BALTJER (1868-1945) CHARLES MCH. HOWARD (1870-1942)

BALTIMORE, MD

MCLEAN, VA

ROCKVILLE, MD

WASHINGTON, D. C.

FAX (30)1 821 0147

WRITER'S DIRECT NUMBER IS April 20, 1992

Office of Zoning Administration and Development Management County Courts Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Attn: Gwen Stephens

Re: Petitioner: Theodore C. Solomon Case No.: 92-356-XA Hearing Date: Friday, April 24, 1992 @ 2:00 p.m.

Dear Ms. Stephens:

I respectfully request that the above captioned hearing be postponed as I am scheduled to appear before the Board of Appeals on Case No.: 91-466-XA on April 24, 1992 @ 10:00 a.m. The case before the Board of Appeals is expected to last all day.

Thank you for your consideration in this matter.

Sincerely,

Robert A. Hoffman



Protesion 4 10 Ex # 5

._ ... ____

LIBER7 4 9 5 PAGE 4 3 1

DEED - FEE SIMPLE - INDIVIOUAL GRANTOR - LONG FORM

This Deed, MADE THIS 16th in the year one thousand nine hundred and

Neil Solomon

by and between eighty seven

April

day of

of Baltimore, Maryland

of the first part, and

Ted Solomon, party of the second part.

WITNESSETH, That in consideration of the sum of Five Dollars and other good and valuable consideration being zero dollars

the said party of the first part

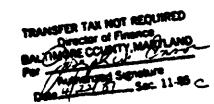
grant and convey to the said party of the second part, his

, in fee simple, all of ground situate in Baltimore County, Maryland

BEING KNOWN AND DESIGNATED as Lot. 18, as shown on a Plat of Benson Mill Estates, which Plat is recorded among the Land Records of Baltimore County in Plat Book E.H.K., Jr. No. 37, folio 77.

> STATE DEPARTMENT OF TOTTALE & STEER

C RC/F 12.00 DEET) SH CLERK #93611 COOL ROZ T12:05



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Ted + Esther Soloman	3006 Benon Mill Rd
ilab Hottman	210 Alleghems tre
Bill Knuin	28 E Susquehann

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
MICHAE) CAMBRUS	1627- FROOS Rel
CARL W STARNER	16228 EAUS Rd 21155
EILLEN STABNER	16222 FALLS RU 21155
BRUCK PENCZCK	46 Odeon Car 21234
	
tan interpretation of the second of the seco	Protestanto 1. # 4
	Trotestanto (1997)

LIBER 6 | 9 4 PAGE 6 0 9

of the first part, and

This Deed, MADE THIS 12th day of August

in the year one thousand nine hundred and Eighty by and between SURFACE-ALL CONSTRUCTION, INC., a body corporate of the State of

WEIL SOLOMON

DEED - FEE SIMPLE - CORPORATE GRANTOR - LONG FORM

of the second part.

WITNESSETH, That in consideration of the sum of One Hundred Fifty Seven Thousand Five Hundred (\$157,500.00) Dollars

Party of the first part

do es grant and convey to the said Party of the second part, his

, in fee simple, all of ground situate in Baltimore County, State of Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 18, as shown on a Plat of Benson Mill Estates, which Plat is recorded among the Land Records of Baltimore County in Plat Book E.H.K., Jr. No. 37, folio 77. BEING the same lot of ground described in a Deed dated September 6, 1979 and recorded among the Land Records of Baltimore County in Liber E.H.K. Jr. No. 6073, folio 366 from Benson Mill Associates, Inc. unto the said within Grantor.

J344444 #3091222 | 00:010 ST807*** EC111852 - 03-01 tr SISSEL++ BITIESS Ca-er E

> 1129 2 72 Acr 10 236250 m

respecting land under covenants restricting I. Declaratory Judgment ←347 use thereof is not necessarily dependent In suit by owners of lots in suburban on technicalities so important at law, such residential development subject to restric- as whether covenants run with land and tions against business use thereof for dec- extent of running of benefits and burdens laration that defendants' lot was part of de- thereof. velopment and hence similarly restricted, though conveyed by developer and by his 7. Covenants \$\infty\$80, 84 grantee to defendant without restrictions, One purchasing land with notice of evidence showed that lot was part of devel- equity attached thereto by vendor in coveopment and always so regarded by those nant restricting use thereof cannot stand

6. Covenants 🗁77

by clear and satisfactory proof that grantor

Equity jurisdiction to enforce rights

Protestanto 5 A

TURNER v. BROCATO

that defendants' lot was part of the devel- Where covenants in deed, restricting

opment and hence similarly restricted, use of land conveyed, are not expressly for

though conveyed by the developer and by or on behalf of grantor, his heirs and as-

his grantee to defendants without restric- signs, they are personal and will not run

tions. From a decree of the Circuit Court, with land, but if grantor intended restric-

No. 2 of Baltimore City, Herman M. Moser, tions to be part of uniform general scheme

J., dismissing the bill of complaint, plain- or plan of development and use affecting tiffs appealed. The Court of Appeals, Ham- land granted and land retained by him

all the lands in the development by such Covenants in deed, creating restrictions restrictions, that defendants bought their on use of land conveyed, must be construed

lot with notice of the rights of owners of strictly in favor of freedom of land and

other lots in the development to require that against person in whose favor they are

were parts of a general plan to be exacted The burden is on one seeking to en-

from all purchasers of lots in the develop- force restrictions, not specifically expressed

ment for their benefit and entered into the in deed, on use of land conveyed, to show

Decree reversed and case remanded for passage of a decree declaring defendants' him as part of uniform general scheme of

mond, J., held that the evidence showed alike, they may be enforced in equity.

Charles T. TURNER et al.

Raiph J. BROCATO et al.

No. 73.

Court of Appeals of Maryland.

Feb. 21, 1955.

Rehearing Denied March 23, 1955.

residential development subject to restric-

tions against business use for a declaration

Suit by owners of lots in a suburban for benefit of both.

that defendants' lot was a part of the development, that the developer intended to bind

4. Covenants C=49

thereon, and that the restrictive covenants 5. Covenants C=77

lot subject to the restrictions and enjoining development.

the restrictions remained attached to de- made.

fendants' lot, though not expressly imposed

consideration of the purchases.

its use in violation thereof.

Collins, J., dissented,

Md 855

who dealt with it, though it was not num-

A landowner, in granting part of land

to another, may validly impose use restric-

tions on such part for benefit of part re-

tained by grantor, on part retained for benefit of part granted, or on both parts

bered on plats of development.

2. Covenants 🗁1

3. Covenants \$\\$=69(1), 77

PETITION AND AUTHORIZATION

We, the undersigned, are owners of Lots known as Benson Mill Estates, which plat is recorded in the Land Records of Baltimore County in Plat Book EHKJr. 37, folio 77. We hereby authorize Michael J. Lambros and/or Carl Starner as our attorney and/or agent to represent to the Zoning Board of Baltimore County this Petition signed by us as our objection to the request made by Theodore C. Solomon for Animal Boarding Place (Fancier's License) at 3006 Benson Mill Road in his Petition for Special Exception for a kennel under Baltimore County Zoning regulations 421.1 and variance of side/front yard in lieu of rear for accessory building Zoning regulations 400.1. The case Case number is 92-356XA which is scheduled for a hearing on May 11, 1992 at 10:00 a.m. at Baltimore County Courthouse Room 118, Towson, Maryland.

In addition to the general objection to this request, we specifically object to the request because it violates the restrictions of the development; specifically, Restriction #1 that states that the Land conveyed shall not be occupied or used for any purpose other than residential (Restrictions attached).

Cleen Starner 16328 Jalla Id. Toppera INS Donnes - Instant 16304 Falls Rd. Ly Calcular 16304 Just 2015 Land Rolling 16304 Just 2115 January Rolling 1630 Falls Rd. 3	<u>Name</u>	Address	Lot No.
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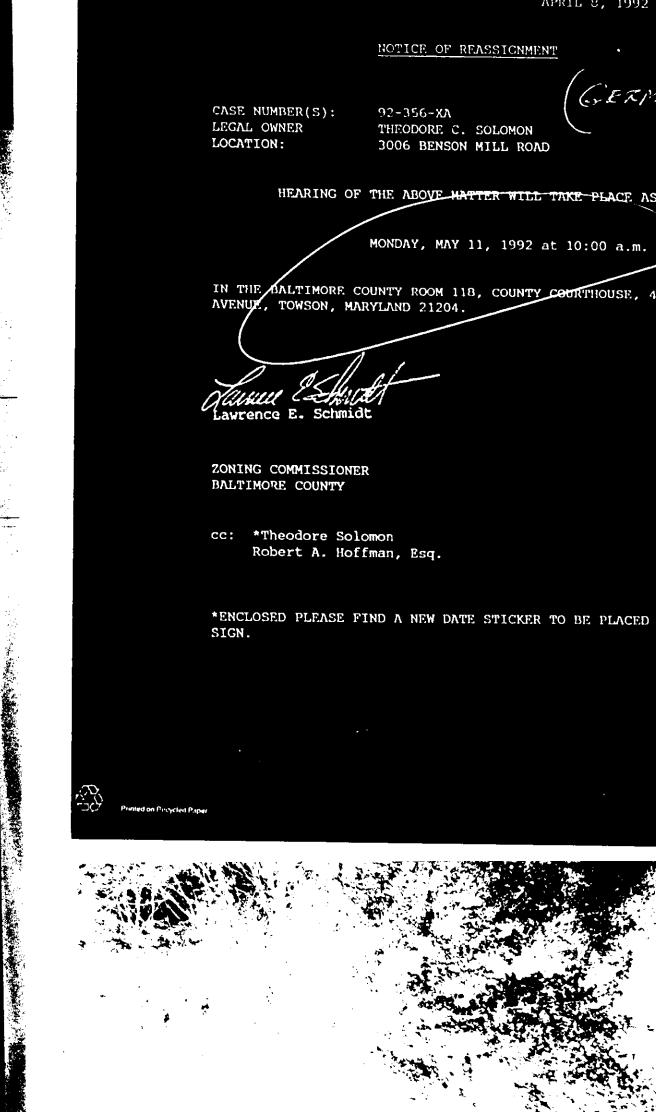
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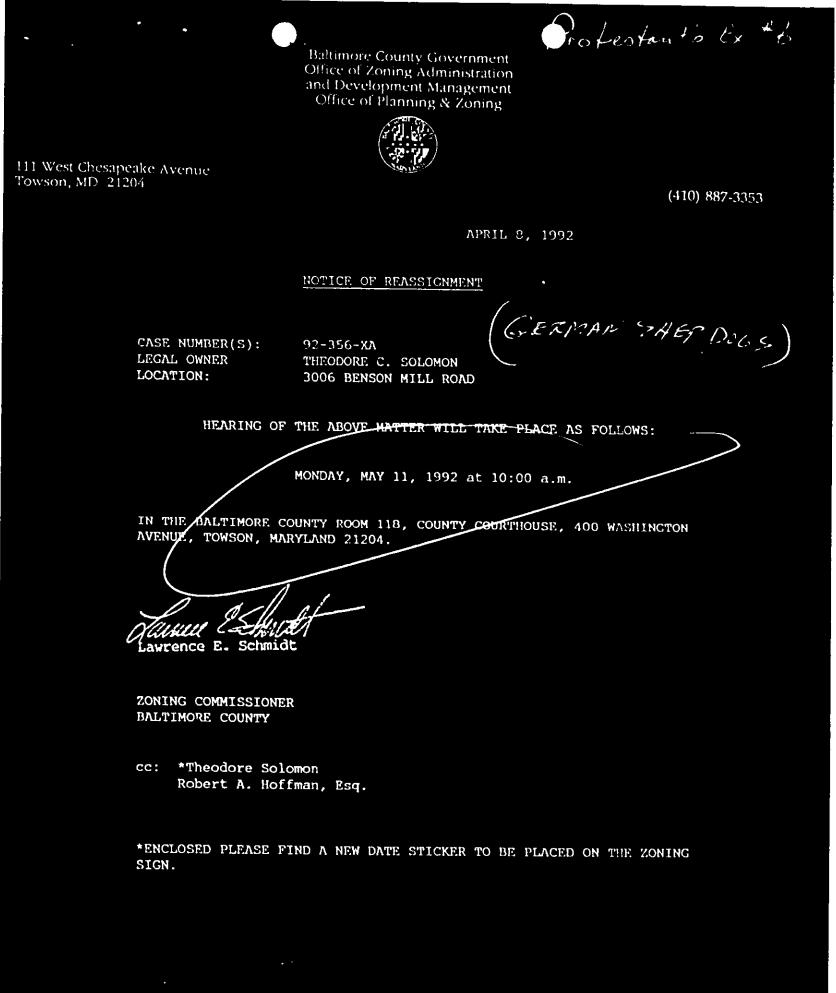
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Esther and Theodore Solomon 3006 Benson Mill Road Upperco, Maryland 21155 April 4, 1992

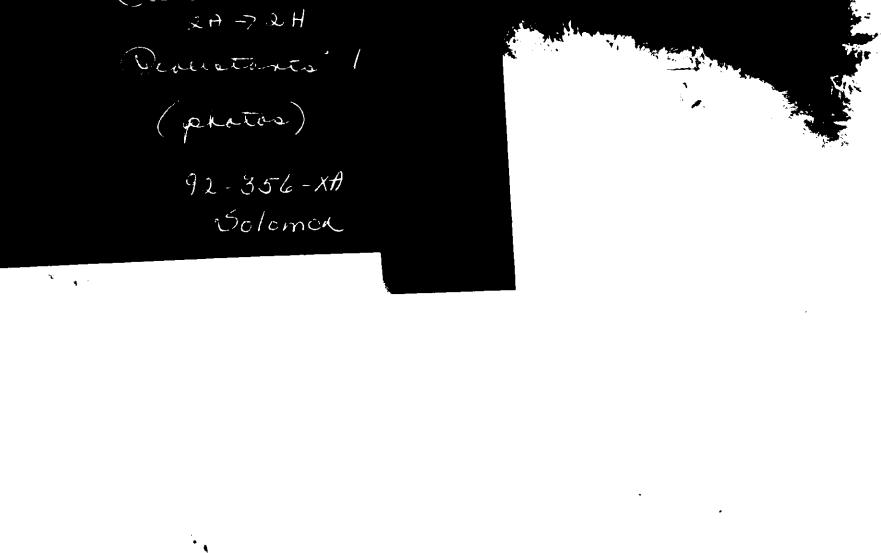
Dear Neighbor:

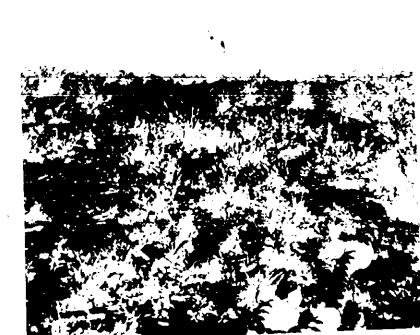
As you are aware, we are seeking approval from Baltimore County to allow us to breed our German Shepherd Dogs. We have been told by Baltimore County that this requires a special exception and variances to some setback regulations.

We are committed to having no more than 5 adult dogs on our property at any time, and we are positive that you will not be disturbed in any way by this use. Therefore, we ask that you sign below to indicate that you do not oppose the granting of a special exception or variance in Case No. 92-356-XA to allow us to breed our German Shepherds.

CADERCE MAD 31155

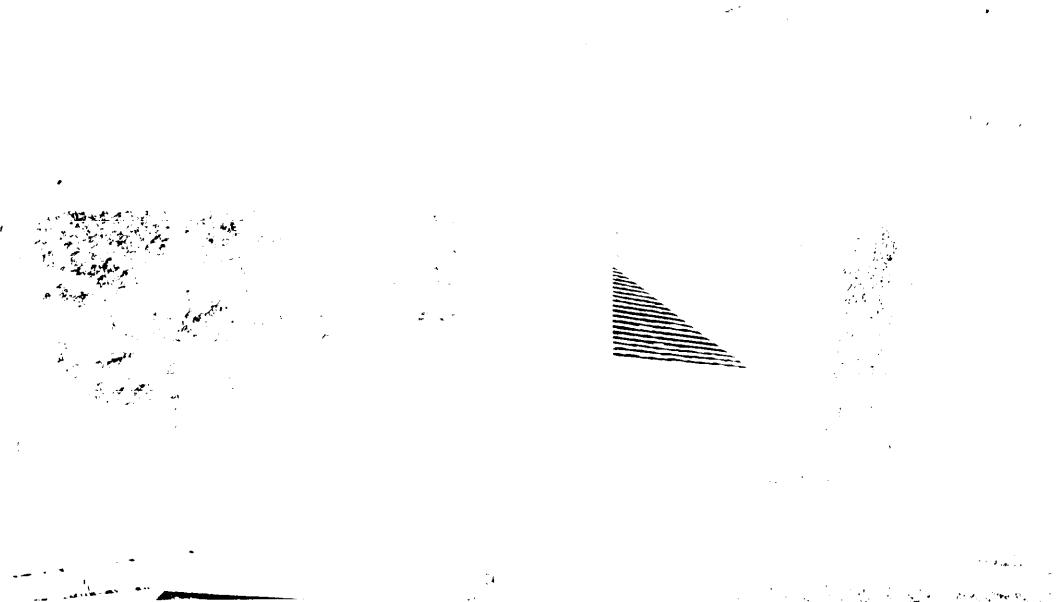


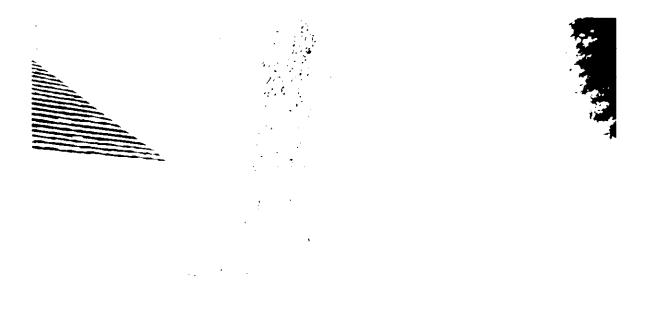




Petitiones









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SITE ROAD

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TO READ OF STATE OF STATE

MORTON GOLDSTRIN 7839.198 LOT 2 EUNICE V. MORGAN 6443-475 RC 2 10716 GILBERT AMPROSE + AHNA BRUNGARDT 6000 - 324 7405.481 LOTI Pc2 LOT 18 27517AN BENSON MILL BUTATES P. 37. 77. * (0000 | 252) ex. Zaning RC 2 JAMES B. + ROSALIND J. MILLETTE 542B - 567

WUILDER, MER 211940

92-356-XA

TITIONER'S

BIT 1

PLAN TO ACCOMPANY APPLICATION
FOR ANIMAL BOARDING PLACE
OF THE PROPERTY OF

TED SOLOPION
LOCATED AT

#3006 BENGON MILL ROAD

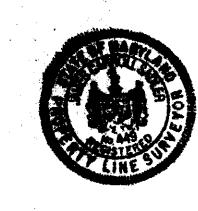
SHE BLECTION DISTRICT BALTIMORE CO., MD.

ecalie : 1" 500

PATE 12/1/1991

WEN / A/1392 EEV. 3/12/1992

#372



PROBLEMED BY

W. T. SADLED - SURVEYORS

INT WESTMINSTEIZ RD.

REISTERSTOWN MO. 21136

(410) 526-5618

6445-475 GILBERT AMPROSE + ANNA BEUNGAEDT 6051-334 -0T1 LOT 18 37517A4 PLATOR BENSON MILL BOTATES

Ktitioners.

The Chart.

92-356-XA

FLAN TO ASSOCIATION APPLICATION

FOR ANIMAL BOASTOING PLACE

(FANCIERS LICENSE)

OF THE PROPERTY OF

TED SOLOTION

LOCATED AT

SHE BLECTICA DISTRICT BRALTIFICES CO., ME

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PATE 12/1/1991 1611 1/14/1392 254.3/12/1992

OWNED

TED GOLDMON BOOK HELKAN HILL ROMP HUTCHE, HID. 21130

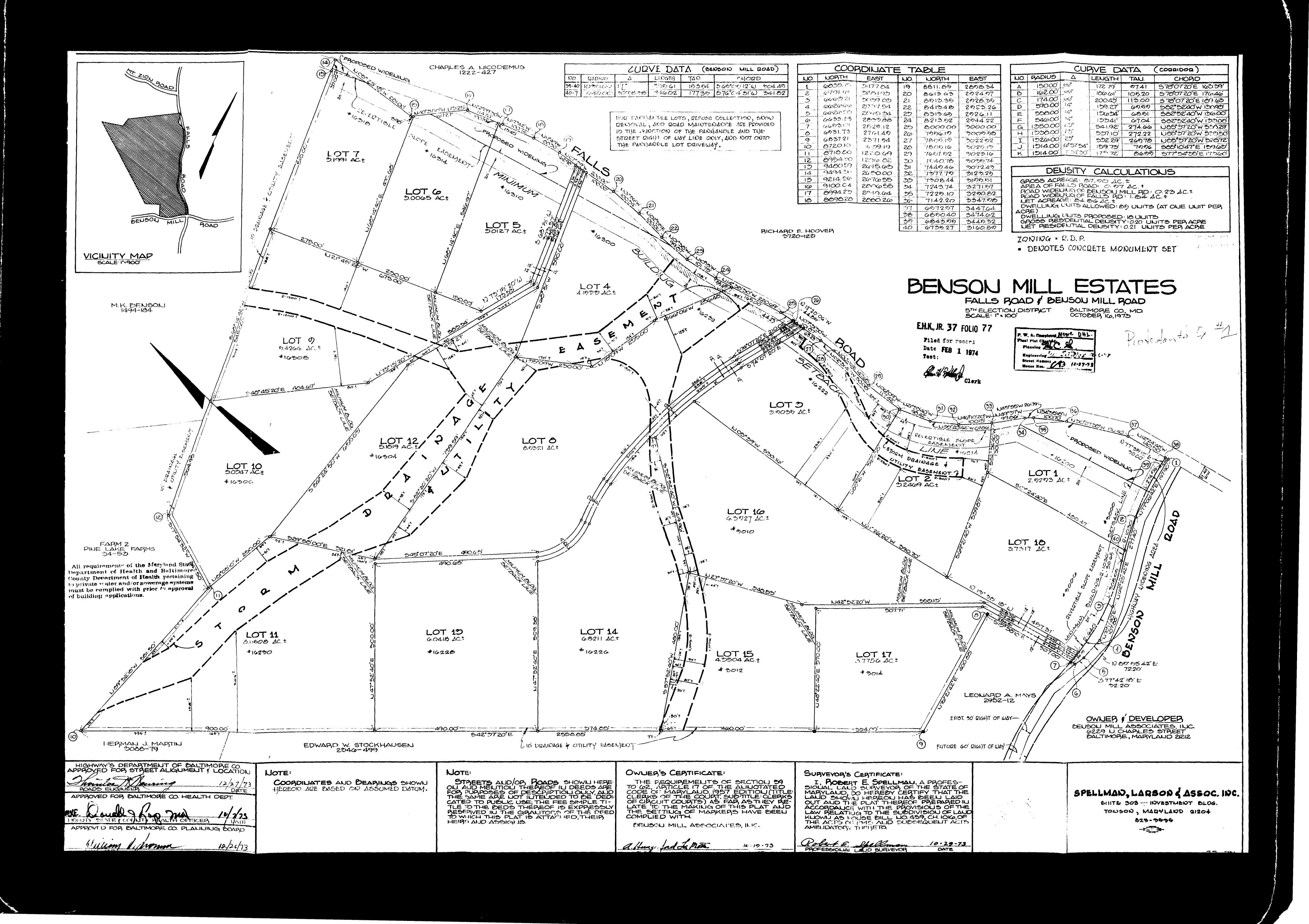
W. T SADLED - SURVEYORS

182 WESTMINSTER RD.

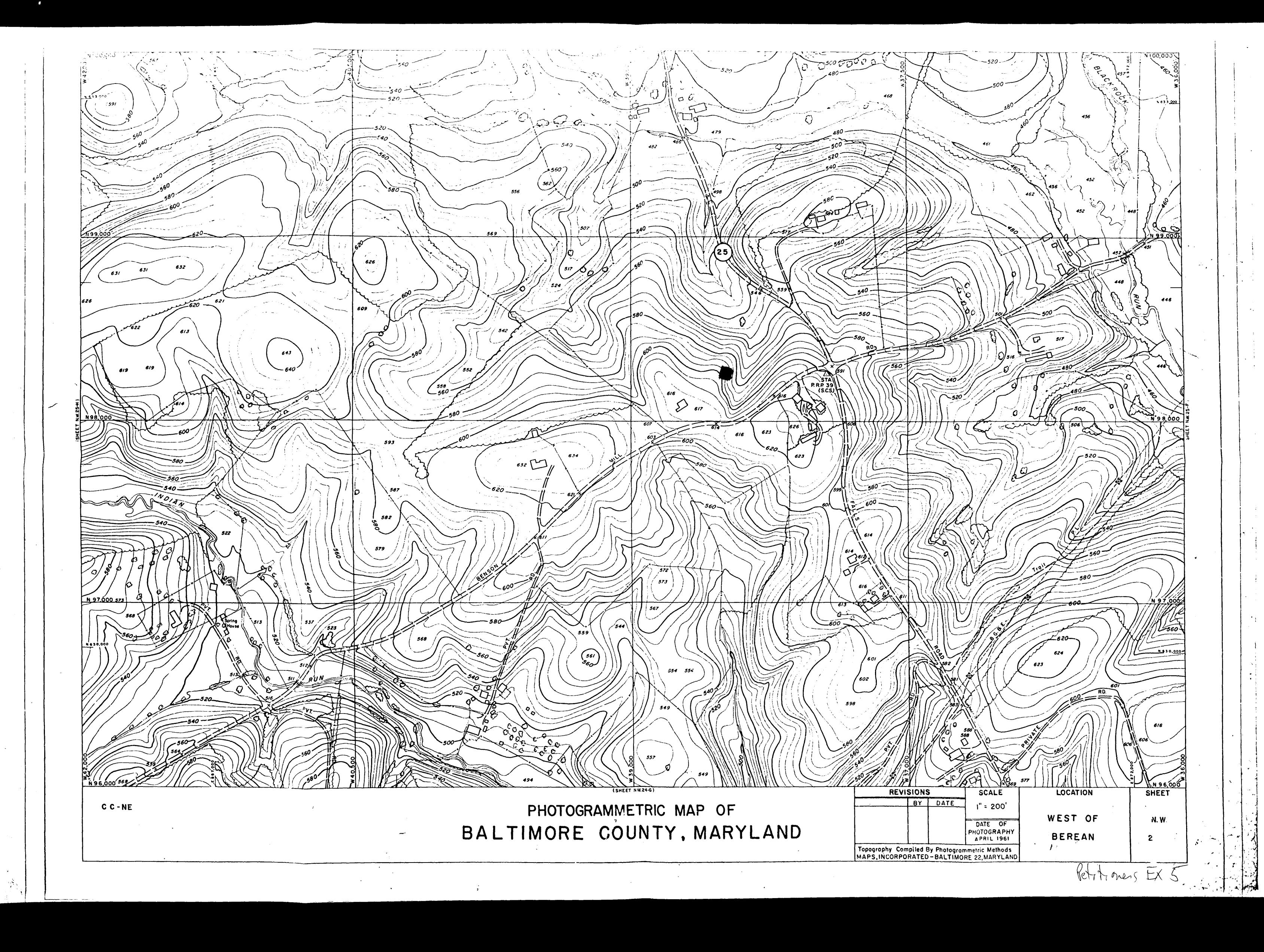
PEISTERSTOWN, MD. 21136

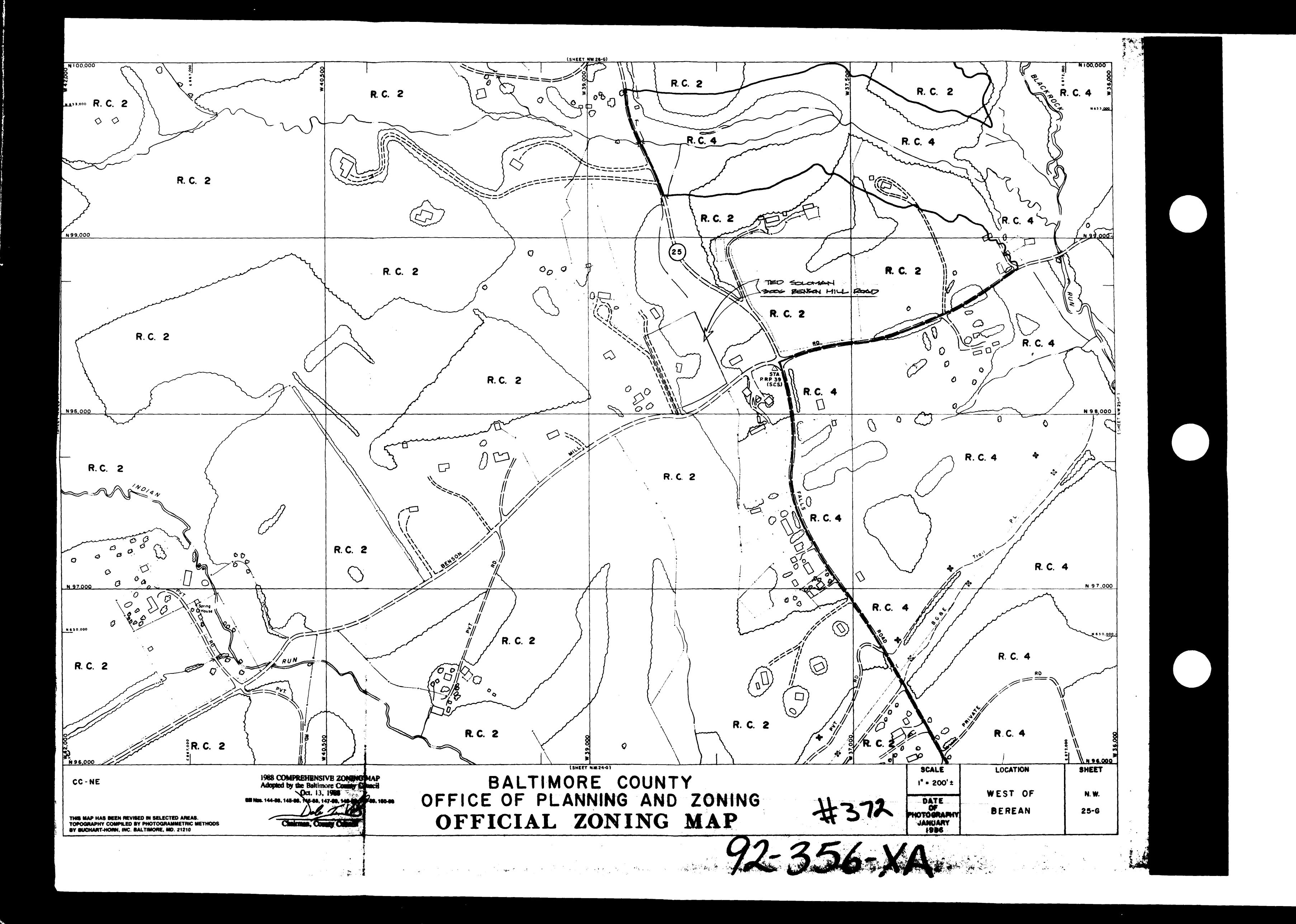
(417) 5726 F613

+372









that all of the dogs are currently kept incide from 9:00 PM until approximately 7:30 AM each day and that when the dogs are outside, they are kept in the deg runs depicted on Petitioner's Exhibit 1 as the kennel buildings. Mrs. Solomon testified that the dogs are let out of the kennels for purposes of exercise and training but still remain within the fenced area depicted on Potitioner's Exhibit 1. The Petitioners submitted photographs of the subject property which revealed that the Petitioners maintain their property in a neat and orderly fashion. The property is well-buffered by many trees that surround the yard where the dogs are kept. Mrs. Solomon testified that she personally approached all adjoining and surrounding property owners who indicated that they have no objections to her keeping and breeding german shepherds

that she and her hasband own three german shepherd dogs, two of which were

purchased in Germany. Mrs. Solomon togtified that she trains, grooms and

shows two of the dogs and has done so for the past approximately 2 and 1/2

years. Mrs. Selemen testified that she would like to add two more german

shepherd dogs in order to breed and sell pupples. She testified that all

does kept on the premises would be her personal pets and that there would

be no boarding of other animals on the property. Mrs. Sclomon testified

one time. Testimony further revealed that this Petition was filed not by virtue of a complaint being registered but because the Petitioners made application to Baltimore County for a fanciers' license. William Kirwin appeared and testified on behalf of the Petitioners. Mr. Kirwin, an expert land planner, testified that he visited the

subject property on one occasion. Mr. Kirwin described the subject site

on the subject property. Mrs. Solomon testified that she would limit

herself to having no more than five (5) adult dogs on the property at any

Various neighbors appeared in opposition to the Petitioners' request. The cummulative testimony of the Profestants was that they are generally opposed to a kennel operation existing in this residential neighborhood. The Protestants believe that such an operation would have an adverse effect on property values in their community. Furthermore, the Protestants, by and through their attorney, Michael J. hambros, argued that this type of use is not permitted by virtue of the covenants and restrictions that apply to all lots in the Benson Mill Estates development, of which they believe the subject property is a part. The Protestants presented evidence and testimony, by way of Thadeus Hense, attorney at law and an expert in real estate and title work, which attempted to support the argument that the Petitioners' property is part of the Benson Mill Estates development and is therefore bound by the covenants and restrictions that apply to that subdivision. Whether this lot is part of the Benson Mill Estates and subject to those covenants and restrictions is an issue that must be reserved for the Circuit Court. The effects of those covenants and restrictions on the subject property are not a factor to be considered by this administrative body.

It is clear that the B.C.Z.R. permits the use proposed in an R.C.2 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

as approximately 3.00 acres of property with a dense mix of pine and hardwood fores) surrounding the subject dwelling and kepnel area. He stated that it is impossible to meet the required 200-foot setback from all property lines due to the location of the existing dwelling.

The Petitioner had the burden of adducing testimony and evidence cial exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

which would show that the proposed use met the prescribed standards and requirements set torth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a spe-

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

difficulty for an area variance, the Petitioner must meet the following:

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

- 4-

showe, should be granted

HEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for balkimore County this and day of June, 1992 that the Petition for Special Exception to use the subject property as a kennel (a "fanciers" establishment), be and is hereby GRANTED, subject to the restrictions set forth

IT IS FURTHER ORDERED that a variance to permit a west side yard betback of 88 feet, an east side yard setback of 170 feet, and a rear yard setback of 120 feet, all in lieu of the required 200 feet for the existing dwelling and accessory kennel building, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

> 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

> 2) The special exception and variance relief granted herein shall inure to the use and benefit of the Petitioners, Theodore and Esther Solomon, only. In the event the Petitioners either sell, lease or transfer the subject property to a third party, the special exception for a kennel operation on the subject property shall cease and terminate.

> 3) The Petitioners shall have no more than five (5) adult dogs on the property at any one time. All dogs kept on the premises are required to be the personal pets of the Petitioners.

> 4) All dogs shall be kept inside the subject dwelling from approximately 9:00 PM until approximately 7:30 AM each day. Further, whenever the dogs are outside, they shall be kept inside the fenced area as depicted on Petitioner's Exhibit 1. At no time shall the dogs be permitted to run outside the fenced area, unless under the direct supervision of the Petitioners.

5) Within sixty (60) days of the date of this Order, the accessory kennel building located outside the fenced area on the west side of the subject property

shall either be removed from the property or relocated to within the fenced area as shown on Petitioner's Exhibit 1. In either event, the Petitioners shall submit a revised site plan depicting either its removal or relocation for inclusion in the case tile within sixty (60) days of the date of this Order.

6) Any and all puppies resulting from the Petitioners' breeding their dogs, shall be removed from the property within six (6) months after their birth. This should allow the Petitioners sufficient time to either sell or relocate any and all puppies.

7) When applying for any permits, the site plan and/ or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Zoning Variance requesting relief from Section 421.1 of the B.C.Z.R. to permit a kennel use area as close to a property line as 51 feet in lieu of the required minimum of 200 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 400.1 of the B.C.Z.R. to permit an accessory kennel building to be located in the side/front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED since the Petitioners are now required, pursuant to this Order, to either relocate or remove this smaller kennel from the side/front yard of their property.

> Deputy Zoning Commissioner for Baltimore County

TMK:bjs

Suite 113 Courthouse 400 Washington Avenue 7.110 SS2 1386 Towson, MD 21204 June 2, 1992 Robert A. Hoffman, Esquire Venable, Baetjer & Howard 210 Allegheny Avenue Towson, Maryland 21204 RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE N/S Benson Mill Road, 320' W of the c/l of Falls Road (3006 Benson Mill Road) 5th Election District - 3rd Councilmanic District Theodore Solomon, et ux - Petitioners Case No. 92-356-XA Dear Mr. Hoffman: Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted and the Petition for Zoning Variance granted in part and denied in part in accordance with the attached Order. In the event any party finds the decision rendered is unfavor-

able, any party may file an appeal to the County Board of Appeals within

thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391. Very truly yours,

TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

cc: Michael J. Lambros, Esquire 16230 Falls Road, Upperco, Md. 21155

that the spirit of the ordinance will be observed and public safety and welfare secured.

3) whether reflet can be granted in such fashion

Anderson v. Bd. of Appeals, Town of Chesapeako Beach, 22 Md. App. 28

After due consideration of the testimony and evidence presented, it appears that a modification of the relief requested should be granted. It is clear that practical difficulty or unreasonable hardship will result if a variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structures which are the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested, as modified, will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the R.C.Z.R. In the opinion of this Deputy Zoning Commissioner, the small kennel located outside the fenced area should either be relocated to within the fenced area or removed from the subject property, thereby eliminating the need for the requested variance of 51 feet from the west side property line. Instead, a variance of 88 feet for the existing dwelling shall be granted since the dogs will be kept overnight inside the dwelling which shall be considered part of the kennel operation. The Petitioners shall be permitted to relocate the smaller kennel building and dog run to inside the fenced area, a minimum of 88 feet from any property line.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above. the relief requested in the special exception and variances, as modified

Petition for Special Exception

to the Zoning Commissioner of Baltimore County 92-356-XA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for _____a kennel (a "fanciers" establishment)

(Type or Print Name)

_____ Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing

of this petition, and further agree to and are to be bound by the zoning regulations and restrictions

of this petition, and further agree to of Baltimore County adopted pursuan	t to the Zoning Law for Baltimore County.
	I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee:	Legal Owner(s):

Theodore C. Solomon (Type or Print Name) (Type or Print Name)

______ City and State Attorney for Petitioner: 3006 Benson Mill Road 771-4484 Robert A. Hoffman

(Type or Print Name) the Mills Sparks, Maryland 21152 City and State 210 Allegheny Avenue Name, address and phone number of legal owner, con-

Towson, Maryland 21204 Robert A. Hoffman Esquire Name 210 Allegheny Avenue

Towson, Maryland 21204 823-4111 823-4111 Attorney's Telephone No.: ORDER RECEIVED FOR FILING

CIMATED LENGTH OF HEARING -1/2HR. MON./TUES./WED. - NEXT TWO MONTHS REVIEWED BY:

- 6-

- 7-



Petition for Variance

to the Zoning Commissioner of Baltimore County 92-356-XA The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a 421.1 B.C.Z.R. to permit a kennel use area as close as 51 feet in lieu of the required miniumum 200 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

To be determined at hearing

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County. I/We do solemnly declare and affirm,

under the penalties of perjury, that I/we are the legal owner(s) of the property

X Mille Selling

3006 Benson Mill Road 771-4484

Sparks, Maryland 21152

Name, address and phone number of legal owner, con-tract purchaser or representative to be contacted

Robert A. Hoffman, Esquire

Name 210 Allegheny Avenue

ALL _____ OTHER _____

Towson. Maryland 21204 823-4111

ESTIMATED LENGTH OF HEARING -1/2HR. +1HR.

AVAILABLE FOR HEARING

HON./TUES./WED. - NEXT TWO MONTHS

Phone No.

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Account: R-001-6150

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PRICE

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O.014L: \$350.00

which is the subject of this Petition.

Theodore C. Solomon

(Type or Print Name)

(Type or Print Name)

City and State

Legal Owner(s):

Contract Purchaser/Lessee: ----(Type or Print Name)

------City and State Attorney for Petitioner: Robert A. Hoffman, Esquire

210 Allegheny Avenue Towson, Maryland 21204

(Type or Print Name)

Attorney's Telephone No.: 823-4111 ORDER RECEIVED FOR FILING 6/2/92

County Office Building

3/17/96

111 West Chesapeake Avenue Towson, Maryland 21204

PUBLIC HEAKING FEES

050 -SPECIAL EXCEPTION

OZO -ZUNING VARIANCE (OTHER)

LAST NAME OF OWNERS SULCITION

Phone (301) 526-5618 FAX (301) 526-7199

152 Westminster Road Reisterstown, Md. 21136

W.T. SADLER SURVEYORS

Zoning Description Property of Ted Solomon 3006 Benson Mill Road Baltimore County, MD.

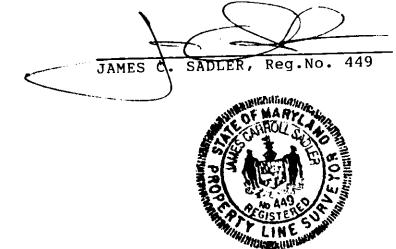
James C. Sadler

Beginning at a point on the northern side if Benson Mill Road, 60 feet wide at a distance of 320 feet, more or less westerly from the existing centerline of Falls Road, thence the following

- course and distances: 1) along a curve to the left with a radius of 1030 feet for a distance of 30.65 feet
- 2) along a curve to the right with a radius of 640 feet for a distance of 308.99 feet
- 3) north 13 degrees 38 minutes 18 seconds west 457.31 feet
- 4) north 69 degrees 21 minutes 40 seconds east 339.87 feet 5) south 13 degrees 24 minutes 40 seconds east 480.47 feet to the place of beginning.

Containing 3.7317 acres of land more or less. Being lot 18, on a plat of Benson Mill Estates, recorded in Baltimore County in Plat Book E.H.K. Jr., 37, folio 77, SAid property is recorded in Deed Liber 7495, folio 431.

This metes and bounds description was prepared for zoning purposes only.





Baltimore Coun

Zoning Commissione

County Office Building Zoning Commisioner County Office Building 111 West Chesapeake Avenue Towson, Muryland 21204



Account: R-001-6150

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SEARCH STRUCK TOWNS OF WARRING

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Baltimore Cour Zoning Commissioner
County Office Mailding County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204



Account. R 001-6150

Please Make Chierks(中國國際是了新華書戶內容 County \$ 114.73 64 CQ 13:21 AMO5-05-92

COMING DEPARTMENT OF BALTIMORE COUNTY

CERTIFICATE OF POSTING

92-3-6 1.11

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District	· · · · · · · · · · · · · · · · · · ·	Date of Posting
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CERTIFICATE OF POSTING 92-356-XA

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in front of Subject to	Austr
Remarks:	7
Posted by	Date of return July 31-92
Howhen of Comme	

NOTICE OF HEARING The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a

public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as fol-Case Number: 92-356-XA N S Benson Mill Road, 320

W of c1 Falls Road 3006 Benson Mill Road 3rd Councilmanic Special Exception: for a ken-nel (a "fancier's establishment"). Variance: to permit a kennel use area as close as 51 feet in lieu o the required minimum 200 feet; and to permit accessory buildings in the side/front yard in lieu of the

NOTE: HEARINGS ARE HA'
CAPPED ACCESSIBLE
SPECIAL ACCOMMOT
PLEASE CALL 887-334
4/065 April 2.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4-7, 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on ____

THE JEFFERSONIAN.

D44.73

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 2120+

3

(410) 887-3353

DATE: 4 7 92

Theodore C. Solomon 3006 Benson Mill Road Sparks, Maryland 21152

Dear Petitioner(s):

CASE NUMBER: 92-356-XA N/S Benson Mill Road, 320' W of c/l Falls Road 3006 Benson Mill Road 5th Election District - 3rd Councilmanic Petitioner(s): Theodore C. Solomon

Please be advised that \$ 114.73 is due for advertising and posting of the above captioned THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR

THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or

your Order, immediate attention to this matter is suggested.

ARMOLD JABLOW DIRECTOR

cc: Robert A. Hoffman, Esq.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 2120+

(410) 887-3353

MARCH 27, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-356-XA N/S Benson Mill Road, 320' W of c/l Falls Road 3006 Benson Mill Road 5th Election District - 3rd Councilmanic Petitioner(s): Theodore C. Solomon HEARING: FRIDAY, APRIL 24, 1992 at 2:00 p.m.

Special Exception for a kennel (a "fancier's establishment). Variance to permit a kennel use area as close as 51 feet in lieu of the required minimum 200 feet; and to permit accessory buildings in the side/front yard in lieu of the rear.

Zoning Commissioner of Baltimore County

> cc: Theodore C. Solomon Robert A. Hoffman, Esq.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Printed on Recycled Paper

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 2120+

Printed on Recycled Paper

(410) 887-3353

APRIL 8, 1992

NOTICE OF REASSIGNMENT

92-356-XA CASE NUMBER(S): THEODORE C. SOLOMON LEGAL OWNER 3006 BENSON MILL ROAD

LOCATION:

HEARING OF THE ABOVE MATTER WILL TAKE PLACE AS FOLLOWS:

MONDAY, MAY 11, 1992 at 10:00 a.m.

IN THE BALTIMORE COUNTY ROOM 118, COUNTY COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON, MARYLAND 21204.

ZONING COMMISSIONER BALTIMORE COUNTY

cc: *Theodore Solomon Robert A. Hoffman, Esq.

*ENCLOSED PLEASE FIND A NEW DATE STICKER TO BE PLACED ON THE ZONING

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

April 14, 1992

(410) 887-3353

Robert A. Hoffman, Esquire 210 Allegheny Avenue Towson, MD 21204

RE: Item No. 372, Case No. 92-356-XA Petitioner: Theodore C. Solomon Petition for Special Exception and Variance

Dear Mr. Hoffman:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Baltimore County Government

APRIL 2, 1992

Fire Department

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

March 27, 1992

Arnold Jablon, Director Zoning Administration and Development Management

DIVISION OF GROUND WATER MANAGEMENT

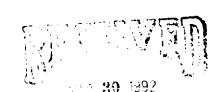
SUBJECT: Zoning Item #372, Zoning Advisory Committee Meeting of March 30, 1992, Theodore C. Solomon, N/S Benson Mill Road, 320' W of centerline Falls Road (#3006 Benson Mill Road), D-5, Private Water and Sewer

COMMENTS ARE AS FOLLOWS:

More detailed information will be required concerning the proper disposal of animal wastes. Contact J. Robert Powell of this Office at 887-2762 prior to application for the building permit.

A \$SF:rmp

372.ZNG/GWRMP



111 West Chesapeake Avenue

Towson, MD 21201

Your petition has been received and accepted for filing this 17th day of March, 1992.

Baltimore County Government

Office of Zoning Administration

and Development Management

Office of Planning & Zoning

DIRECTOR

Zoning Plans Advisory Committee

Petitioner: Theodore C. Solomon Petitioner's Attorney: Robert A. Hoffman

Printed in Religious Faper

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

Zoning Commissioner Office of Planning & Zoning

Robert C. Merrey, Jr.

April 13, 1992

SUBJECT: Zoning Variance Request - ZAC #372 3006 Benson Mill Road

This property was inspected on April 9, 1992. At that time, several dogs were in the kennel that is located 140 feet from the property line and one dog was barking. Sound level measurements recorded at the property line between 3016 and 3006 Benson Mill Road registered levels that would be in violation of the nighttime standards found in State noise regulations. A barking dog in the kennel located 51 feet from the property line would almost certainly exceed both the daytime and the nighttime standards, both of which were established at levels to prevent nuisance noise.

Since noise regulations are enforced on a complaint basis only, not proactively, these comments are being provided only as a source of information for your decision making process, not as a recommendation to either approve or disapprove the request.

RCM/mdb ZAC#372/TXTMDB

700 East Joppa Road Suite 901 Towson, MD 21204-5500

Zoning Administration and

Baltimore County Office Building

Item No.: 372(MJK)

RE: Property Owner: THEODORE C. SOLOMON

Development Management

Location:

Arnold Jablon

Gentlemen:

Towson, MD 21204

Director

BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: April 1, 1992

Mr. Arnold Jablon, Director Office of Zoning Administration and Development Management

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: March 30, 1992

Rahee J. Famili

This office has no comments for item numbers 363, 366, 367, 368, 369, 370, 371, 372, 374, 375, 377, 378, 379, 380, 381 and 382.

Traffic Engineer II

RJF/lvd

edition prior to occupancy. Noted and

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be

#3006 BENSON MILL ROAD

corrected or incorporated into the final plans for the property.

Planning Group

Special Inspection Division

JP/KEK

(301) 887 (500)

Zoning Agenda: MARCH 30, 1992

Fire Prevention Bureau Approved

RWB:DAK:6

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 Grendon Avenue widening should not be counted in the variance request. subject to Division II of the Development Regulations.

ROBERT W. BOWLING, P.E. Chief Developers Engineering Division

FROM: Robert W. Bowling, P.E.

for March 30, 1992

376, 377, 378, 379, 380, 381 and 382.

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: April 3, 1992

Zoning Advisory Committee Meeting

Zoning Administration and Development Management

The Developers Engineering Division has reviewed

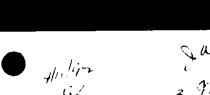
For Item 362, the parking space that is shown in the

For Items 373 and 375, we think that these sites are

the subject zoning items and we have no comments for

Items 363, 366, 367, 368, 369, 370, 371, 372, 374,

(410) 887-3353



April 14, 1992

DATE:

Arnold Jablon, Director Zoning Administration & Development Management

Ervin McDaniel, Chief Development Review Section Office of Planning and Zoning

SUBJECT: PETITIONS FROM ZONING
ADVISORY COMMITTEE - March 30, 1992

The Office of Planning and Zoning has no comments on the

following petitions:

- Item No. 372 Theodore C. Solomon - Item No. 375 James A. Brazil - Item No. 377 Deborah Rollins Frank - Item No. 378 Lakes Property Development Corp - Item No. 379

jm PETITNS2.ZON



ZONING OFFICE

Petition for Special Exception and Zoning Variance N/S of Benson Mill Road, 320' W of the c/l of Falls Road (3006 Benson Mill Road) 5th Election District - 3rd Councilmanic District THEODORE C. SOLOMON - Petitioner Case No. 92-356-XA

Petition(s) for Special Exception and Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (Included with ZAC Comments) Petitioner's Exhibits: 1. Plan to accompany application

2A, 2B, 3A, 3B, 4A - 4D - Photographs

4. Letter of Support from neighbors

Petitioner's/Protestant's Sign-In Sheet

Copy of <u>Turner v. Brocato</u>, 111A.2d855 (1955)

Protestant's Exhibits: 1. PWA - Plan

2. Copy of "Exhibit A" (Restriction) Deed (Neil Solomon)

4. Deed (Surface-All Construction)

5A - 5C - Petition and Authorization

Deputy Zoning Commissioner's Order dated June 2, 1992 (Granted) Notice of Appeal received June 30, 1992 from Michael J. Lambros, Attorney for Protestants.

cc: Theodore C. Solomon - 3006 Benson Mill Road, Sparks, MD 21152 Robert A. Hoffman, Esquire - Venable, Baetjer and Howard 210 Allegheny Avenue, Towson, MD 21204

William Kirwin - 28 E. Susquehanna Avenue, Towson, MD 21204

People's Counsel of Baltimore County Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning Patrick Keller, Office of Planning & Zoning Lawrence E. Schmidt, Zoning Commissioner Timothy M. Kotroco, Deputy Zoning Commissioner W. Carl Richards, Jr., Zoning Coordinator

Docket Clerk Arnold Jablon, Director of Zoning Administration and Development Management

Public Services

BARTIMORE COUNTY, MARYLAND OFFICE OF PLANNING AND ZONING New Courts Bldg - 401 Bosley Avenue, Towson, MD 21204

MEMORANDUM

Arnoid Jablon, Director - Zoning Administration & Development Management

Office of Planning and Zoning

April 15, 1992

SUBJECT: (PROJECT NAME:) 306 BENSON MILL ROAD

INFORMATION:

372 Item Number:

Theodore C. Solomon Petitioner:

3.73 acres Property Size:

Zoning: Special Exception to use the property as a kennel and Variances to permit accessory buildings as close as 51 ft. in lieu of 200 ft.

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

The petitioner is requesting a kennel and variances to permit the kennel use area as close as 51' in lieu of the required minimum of 200'.

This site is located within an area designated as an agricultural priority area according to the Baltimore County Master Plan. This site is surrounded by rural residential and three houses are located within 120' of the subject site's property line.

A kennel can be a nuisance in terms of noise and odors, therefore, our staff has questions about the location and the appropriateness of this use at this particular location. However, if the adjoining property owners are not in opposition to this request, the petition may be approved with certain suggested restrictions:

1. Elimination of the smaller kennel building closest to the property line.

2. A limitation of five (5) adult dogs (1 yr & older), on site at one time.

3. Puppies must be removed after nine (9) months.

4. The special exception be terminated when and if the petitioners sell or move from the property.

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49

400 WASHINGTON AVENUE

TOWSON, MARYLAND 21204

(410) 887-3180

Enclosed please find a copy of the final Opinion and Order

issued this date by the County Board of Appeals of Baltimore County

January 28, 1993

RE: Case No. 92-356-XA

Sincerely,

Theodore C. Solomon

Train a (Calcer man a more

'Kathleen C. Weidenhammer Administrative Assistant

SOLOMON.372

DAINH OF THE

Hearing Room -

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 (410) 887-3180

Room 48, Old Courthouse 400 Washington Avenue August 12, 1992

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-356-XA

THEODORE C. SOLOMON N/s Benson Mill Road, 320' W of c/l Falls Road (3006 Benson Mill Road) 5th Election District; 3rd Councilmanic District

VAR-Kennel use 51' from property line in lieu of required min. 200'; 2 accessory buildings in front yard and side yard

6/2/92 - D.Z.C.'s Order GRANTING Petition.

ASSIGNED FOR: TUESDAY, DECEMBER 8, 1992 AT 10:00 a.m.

cc: Michael J. Lambros, Esquire - Counsel for Protestants

Robert A. Hoffman, Esquire - Counsel for Petitioners

Theodore C. Solomon - Petitioner

Mr. William Kirwin

People's Counsel for Baltimore County, Out It Stratey
Public Sorvices out Ser, aula 8/14/92' 9/20 P. David Fields Lawrence E. Schmidt Timothy M. Kotroco W. Carl Richards, Jr. Docket Clerk - Zoning Arnold Jablon, Director of Zoning Administration

> LindaLee M. Kuszmaul Legal Secretary

Printed on Recycled Paper

8/12/92 - Following parties notified of hearing set for December 8,

Michael J. Lambros, Esquire Robert A. Hoffman, Esquire Theodore C. Solomon Mr. William Kirwin People's Counsel for Baltimore County Public Services P. David Fields Lawrence E. Schmidt Timothy M. Kotroco W. Carl Richards, Jr. Docket Clerk - Zoning Arnold Jablon

1992 at 10:00 a.m.:

111 West Chesapeake Avenue Towson, MD 21204

> Old Courthouse, Room 49 400 Washington Avenue Towson, Maryland 21204 RE: Petition for Special Exception and Zoning Variance

Baltimore County Board of Appeals

N/S of Benson Mill Road, 320; W of the c/1 of Falls Road (3006 Benson Mill Road) 5th Election District, 3rd Councilmanic District THEODORE C. SOLOMON - Petitioner Case No. 92-356-XA

Baltimore County Government

Office of Zoning Administration

and Development Management Office of Planning & Zoning

July 22, 1992

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on June 30, 1992 by Michael J. Lambros, Attorney for Protestants. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

> Very truly yours, 🙍 Town En Zoning Commissioner

(410) 887-3353

cc: Theodore C. Solomon - 3006 Benson Mill Road, Sparks, MD 21152

Robert A. Hoffman, Esquire - Venable, Baetjer and Howard 210 Allegheny Avenue, Towson, MD 21204

William Kirwin - 28 E. Susquehanna Ave., Towson, MD 21204

Michael J. Lambros - Lambros & Lambros

9900 N. York Road, Cockeysville, Maryland 21030

People's Counsel of Baltimore County Old Courthouse, 400 Washington Avenue, Towson, MD 21204

File

prompte of Discourse Pagners.

IN THE MATTER OF APPEALS OF OF THEODORE C. SOLOMON

* BALTIMORE COUNTY RE: ZONING VARIANCE

* CASE NO: 92 356 XA * * * * *

COUNTY BOARD

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

Robert C. Merrey, Jr. 300 East Towsontowne Boulevard Towson, Maryland 21204

YOU ARE HEREBY COMMANDED TO: Personally appear and produce your file with respect to your investigation regarding the zoning variance request of 3006 Benson Mill Road at the County Board of Appeals of Baltimore County, Hearing Room 48, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on Tuesday, December 8, 1992 at 10:00 a.m.

Subpoena requested by the Petitioner; and any questions should be referred to: Thomas P. Dore, Esquire, Covahey & Boozer, P.A., 614 Bosley Avenue, Towson, MD. 21204; (410) 828-9441.

(1) YOU ARE LIABLE TO BODY ATTACHMENT AND FINE FOR FAILURE TO OBEY THIS SUBPOENA. (2) This subpoena shall remain in effect until you

are granted leave to depart by the Court or by an officer acting on behalf of the Court. (3) If this subpoena is for attendance at a deposition and the party served is an organization, notice is hereby given that the organization must designate a person to testify pursuant to Rule 2-412(d).

SHERIFF'S RETURN) - Served and copy delivered on date indicated below.) - Unserved, by reason of _____

_ Fee: _____ Sheriff

22 DEC −# ₹# 6: 8€

Country Register

Arnold Jablon, Director of Zoning Admin.

Michael J. Lambros, Esquire

Cockeysville, MD 21030

in the subject matter.

cc: Robert A. Hoffman, Esquire

Theodore C. Solomon

Lawrence E. Schmidt

Timothy M. Kotroco

W. Carl Richards, Jr.

Docket Clerk - Zoning

William Kirwin

P. David Fields

LAMBROS & LAMBROS

9900 N. York Road

Dear Mr. Lambros: